

**TUMWATER CITY COUNCIL SPECIAL MEETING
MINUTES OF MEETING
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CONVENE: 7:00 p.m.

PRESENT: Mayor Pete Kmet and Councilmembers Joan Cathey, Eileen Swarthout, Neil McClanahan, Ed Hildreth, Nicole Hill, Tom Oliva, and Debbie Sullivan.

Staff: City Administrator John Doan, Development Community Director Michael Matlock, Public Works Director Jay Eaton, Parks and Recreation Director Chuck Denney, Police Chief John Stines, Finance Director Ursula Euler, Assistant Fire Chief Jim McGarva, Senior Project Planner Gary Cooper, and Recording Secretary Valerie Gow.

PUBLIC HEARING:

**RESOLUTION NO.
R2015-008, TO
ANNEX AN AREA
IN THURSTON
COUNTY
REFERRED TO AS
THE “EASTSIDE
UGA
ANNEXATION:”**

Mayor Kmet thanked everyone for attending to provide testimony on the proposed annexation of the eastside of Tumwater within the urban growth area. He introduced Senior Project Planner Gary Cooper to review the scope of the annexation and implications.

Mayor Kmet described the public hearing process.

Planner Cooper corrected some minor corrections to errors contained in information on the overview of utility taxes, property taxes, and licensing.

Planner Cooper described the location of the proposed annexation by displaying an aerial photograph depicting the location of existing City water and sewer service. New development activities prompted the extension of City services, and it's one of the underlying reasons for annexation.

The area is approximately 2.5 square miles in size containing approximately 1,500 single family residences with a population of 3,000 people increasing the City's population by approximately 16% from 18,000 to 21,000 people. Approximately 40 businesses are located in the annexation area within the southern portion of the area.

Most of the land use in the annexation area is residential with 1,008 of the 1,283 parcels residential, 22 parcels are commercial, with the remaining parcels light industrial and industrial uses.

In 2014, City Administrator Doan negotiated with Fire Districts 6 and 15 to ensure a smooth transition if the annexation occurred from the fire district fire services to City fire services. The City had already been the primary responder for half of the annexation area. On October 8, 2014,

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the City mailed notices to all addresses within the annexation boundary inviting residents and businesses of the two open houses. Additionally, a *Frequently Asked Questions* flyer was mailed along with a comparison of property tax, a map, and contact information at the City. Notification was published early to afford time for residents to ask questions. In mid-October, personal visits were conducted with all businesses in the annexation area that could be identified. Some warehouse areas were not clearly identified as businesses. Forty-two personal visits to businesses were completed to distribute information. On October 20 and October 29, the City sponsored open houses at Peter G. Schmidt Elementary. Approximately 40 residents and business owners attended each open house.

On January 5, City staff met with four business owners to discuss annexation and how it affects businesses.

The City's website includes an annexation page containing the annexation information, notice of meetings, hearings, and contact information.

The City proactively outreached and shared information with residents and businesses about annexation. One informational piece included potential revenues and expenses following annexation. The estimates are based on the total assessed value of the annexation area of approximately \$360 million. The initial study assessed value of the annexation area was \$305 million, which speaks to the growth occurring in single family housing.

The City considered all potential sources of revenue. The amounts are projections based on estimated behavior in many cases. Sales tax revenue depends on whether people purchases goods. The estimated income/revenue following annexation is approximately \$2.5 million. Some of the expected costs are estimated to (police and fire protection, compliance enforcement, issuance of building permits, etc.) increase by 16% increase in each of the delivery areas based on the population increases for some services. The estimate for police is six new patrolmen and one administrative staff members to maintain the same level of service and four firefighters. The annual maintenance on 13 new miles of road would be approximately \$13,000 per mile. The City would need to add approximately eight new employees for parks, permitting, finance, and public works at an estimated cost of \$1.8 million.

Estimated costs to residents and businesses are related to utility taxes of approximately 6% for telephone, gas, electricity, sewer and water, and property taxes. Based on an average monthly home cost for utilities of

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\$100 for telephone, \$150 for natural gas or electricity, \$25 for garbage and recycling, and property taxes on a home valued at \$250,000 the difference is \$263 to live in the City per year or approximately \$20 per month. However, the 5% franchise fee for cable is not included in the figures and could equate to an additional \$5 a month.

Businesses must also pay Business and Occupation tax of approximately 1%-2% of gross annual revenues.

Benefits of annexation include increased police and fire capacity to residents and businesses. The Fire Department's fire rating is higher and could reduce homeowner insurance rates. Residents would have the opportunity to have direct access and participation on the City's boards and commissions. Property taxes and impact fees collected within the annexation area would benefit local parks.

Residents with private wells are not required to connect to the City's water system unless there is a failure and the water line is located within 200 feet of the home or business. The same situation applies to septic systems. Garbage and recycling will remain the same.

The area has been slated for annexation since 1992. The county and the City planning agreement under the Growth Management Act designated urban growth areas for annexation within the next 20 years during the planning horizon. Existing zoning was mutually adopted by both the City and the county to ensure consistency during annexation. There are no planned changes in zoning because of the annexation.

If the Council adopts the proposed resolution, the annexation is forwarded to the Boundary Review Board (BRB) for a 45-day review period. If no appeals are received or no other jurisdiction asserts jurisdiction, the BRB returns the annexation to the City for official approval through an ordinance establishing an effective date.

Staff recommends approval of Resolution No. R2015-008 to approve the annexation of the proposed Eastside UGA Annexation subject to approval by the Thurston County Boundary Review Board.

Councilmember Hill requested additional clarification regarding the 40% surcharge for utility service. Planner Cooper advised that many residents receiving water service have signed agreements to annex to the City. In exchange for the signing the agreement, the City is providing water service at a discounted rate. Residents and businesses that did not sign an annexation agreement are paying approximately \$10 more a month for

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water service provided by the City. Once the area is annexed, the discount rate would no longer apply.

Director Eaton explained that the rate is not discounted; however, those customers in the county receiving service who haven't signed a waiver of protest to annexation pay a 40% surcharge. After annexation to the City, the surcharge would no longer apply.

Mayor Kmet opened the public hearing at 7:26 p.m.

**PUBLIC
TESTIMONY:**

Paul Steucke, 7325 Henderson Court SE, thanked the Council for their public service provided to citizens. As a member of other commissions and other bodies, he understands the time it takes away from family to attend meetings. He expressed appreciation for the Council's efforts. He is supportive of the annexation, but wasn't aware that some residents receive a discount on water service. He asked how he could ascertain whether he's receiving the discount because of high water bills during summer months at approximately \$250 each month. The normal water bill in the winter is approximately \$26 a month.

Barbara Price, 1718 65th Avenue SE, said she opposes annexation.

Judith Johnson, 7330 Fair Oaks Road SE, said she supports her friend and her parents who have lived on 65th Avenue within the annexation area for 50 years. The increased costs were characterized as minimal. However, for a retiree and her 90-year old parents, the costs are a huge deal and there are many more people who have lived there for many years, were never part of the urban growth area, and didn't purchase new homes and will be impacted negatively by having to pay higher taxes and higher surcharges on utility bills. Many of the homes have wells and septic systems and there is a real fear homeowners will be required to connect to the City's system. Residents residing in the area for many years have many issues.

Marsha Brown, 6813 Dena Court SE, said she opposes the annexation.

Bill Mooman, 1940 Arab Drive SE, requested clarification on the number of additional police and fire personnel.

Planner Cooper advised that the annexation would add six police officers and four firefighters.

Leslie Johnson, 940th 88th Avenue SE, thanked the Council for their service. Her first concern involves her prior residence in the City of

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Olympia whereby she encountered stormwater drainage issues with water flowing into a neighborhood's catch basin. During 100-year storms, stormwater was often within five feet of her back porch. Fighting city hall wasn't an easy task. Although it's possible that the county wouldn't have been easier to deal with, she perceives the county as more favorable in terms of dealing with similar issues. She is acquainted with Councilmember Hill and asked about the potential outcome should the current Council be replaced with individuals who want to change policies. She owns two acres of property with a duplex on land zoned Light Industrial. Although at this point, she doesn't plan to build, she might want to build a smaller house or a manufactured home. She requested assurance that the annexation wouldn't prohibit her future plans. She asked about the difference in building permits and whether the City's rules are more stringent than the county's. It would be easier for her to visit City Hall to seek assistance on future construction. She asked about the definition for a failing septic system and whether it renders a septic system unusable or whether it could be repaired. When she encountered the problems with the City of Olympia, she had to rely on staff because councilmembers do not serve full time, which increases the power of staff members. Although, City of Tumwater staff appear to be confident, she questioned what might occur if staff members render an opinion that doesn't agree with the affected neighborhood. She was required to fight city hall and it took two years of hard work. There were safety issues and the staff member overseeing the problem did not agree with her and reported to the City Council that the resident was wrong or the outcome would be different if requested actions were implemented. Her concern is becoming part of a system whereby she and other who do not agree encounter staff who have more power. Staff members are not elected.

Director Matlock responded to questions about future residential development. Ms. Johnson's property is located within a Light Industrial zone. The existing use is considered a non-conforming use. New residential uses are not allowed in Light Industrial zones. Although the existing house is non-conforming, construction of an accessory dwelling unit would not be allowed. The county zoning should be similar because it's the same zone in the county with the same standards. Building codes between the City and the county are virtually identical.

Mayor Kmet said failure of septic systems typically occur when sewerage seeps to the ground surface. Sometimes, it is possible to repair, but in most circumstances, replacement with a new system is required. It likely would be more expensive to connect to sewer service but over the long-term, it makes more sense. The determination for requiring connection is by the Thurston County Board of Health. Connection is only required if

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sewer is available. Jurisdictions are jointly exploring ways to extend sewer to areas of the county that are experiencing septic system failures. The failure of wells typically occurs when the well becomes plugged with sand or ceases producing water. Many times, it requires drilling a new well. Connection to City water is likely less expensive than drilling a new well.

Mayor Kmet addressed comments about the responsiveness of cities versus counties. Each day he receives emails from citizens expressing concerns. As the Mayor, he's responsible for following up with citizen complaints and monitoring responses from staff. If an issue has broader implications, it likely would involve the Council.

Ms. Johnson asked whether she would be liable for paying B&O tax as a landlord of a duplex. Mayor Kmet said B&O taxes only apply to businesses.

Councilmember Cathey added that the Council's goal in setting policies is ensuring policies benefit the City and citizens in the long term. A Council of new members would encounter difficulty in arbitrarily changing policy. Any changes in policy require a review and vote by the Council.

Roxann Patane, 1921 69th Avenue SE, said that when she moved to the area from Nevada she was excited to move to the county. The realtor did not disclose any information about the potential of annexation. She indicated that animal control services would likely increase as well. She asked about the City's rate for licensing pets.

Mayor Kmet explained that Animal Services is a joint service provided through the three larger cities in conjunction with Thurston County. Rates are the same in all participating jurisdictions.

Councilmember Hill noted the City requires licensing of cats whereas the county doesn't require licensing.

Ms. Putane said she lives in the Deschutes River Highlands subdivision and is concerned about paying more in taxes for water she currently receives. She asked about the probability of the tax rate increasing in future years. She doesn't envision a reduction in costs but foresees them only increasing. She asked whether some of the revenue generated by the annexation would be allocated to the brewery.

Mayor Kmet advised that half of all utility taxes fund general operations of the City (police and fire services) and the other half funds capital

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facilities projects for road improvements, purchasing park land, and maintenance of City facilities. The City is not an owner of any brewery property; however, the City and the cities of Olympia and Lacey purchased the brewery rights and are working together to access the water. The Council has discussed potential investments to help facilitate redevelopment of the brewery.

Ms. Patane asked whether the subdivision would receive snow removal service during the winter and whether the City picks up Christmas trees for disposal. Mayor Kmet advised that the City operates four snowplows and offers a program during the first two week in January for disposal of Christmas trees.

Ms. Putane asked about any increase in animal control services. Councilmember Hill noted the services cities receive from Animal Services are at a higher level than the county because cities pay more for the increased service level.

Sue Danver, 7106 Foothill Loop SW, Olympia, said she is not a Tumwater citizen and was only notified about the proposed annexation two weeks ago. She provided the Council with a letter and a decision by the Board of County Commissioners concerning the Deschutes River Highlands subdivision. In 2005, she participated in an appeal of the county's hearing examiner ruling. The Commissioners agreed with questions about the future development of 73rd Avenue and stipulated that the applicant must secure an administrative reduction of the 200-foot buffer for the category II wetland in the 73rd Avenue SE right-of-end. Additionally, the applicant must secure any other permits necessary, if any, for the construction for the 20' paved emergency access road, including the bridge, from the subject site south to 73rd Avenue SE. The relief from the 200 foot buffer, and the required permits, if any, need to be approved, and the emergency access constructed prior to the final approval of Phase/Division II or the 150th lot, whichever comes first. It appears the second phase of the subdivision is under construction and she, as an appellant, was never informed by the county. She asked whether construction is occurring for the next phase of 150 lots.

Staff advised that construction has commenced in phase 2 and that an emergency access road had been constructed.

Ms. Danver asked the Council to explore the legal issues surrounding the subdivision. Should the road be accessible to the public, it's likely an expensive bridge would be required. She asked about the responsible party for constructing and paying for the bridge.

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Mr. Steucke added that he often jogs on the access road and any bridge would be expensive to construct. Part of the construction agreement included a provision for a paved road to provide police and fire access to the backside of the subdivision. The road exists and is blocked with a gate accessible only to fire and police responders.

Ms. Danver said the decision stipulated the option of pursuing access through Camp Solomon and connecting to an existing driveway. However, Camp Solomon refused to allow access, which is why the roadway was the solution pursued.

Frank Hensley, 7828 Western Court SE, said he is speaking on behalf of the Bush Prairie neighborhood. He is a 30-year former resident of Tumwater and a future resident of Tumwater. He thanked the Council for their service, as he knows what the job entails. Many citizens he's personally spoken with do not realize the waiver of protest to annexation was signed by the developer to receive City water service. Many citizens do not understand why they cannot vote on the annexation. The neighborhood is interested the Trails End property recently purchased by the City and is seeking inclusion of a meeting room in the future development of the City's facility for use by local neighborhoods. The neighborhood would also like to be involved in the planning. A number of rumors exist surrounding the industrial area housing a marijuana farm in one of the large buildings. He asked for verification as to whether the rumor is accurate.

Director Matlock advised that the City has not received any marijuana farm proposals for the industrial area near the Trails End property.

Mr. Hensley commented on the outstanding cooperation from City staff, particularly Director Eaton and Planner Cooper. To date, he hasn't heard any objections to the annexation from his neighbors.

Mayor Kmet added that the City has received proposals from several marijuana processors to establish operations in the industrial area south of the airport, as well as one processor in the Beehive Industrial Park off Trosper Road. City regulations allow the use in industrial areas with additional requirements to ensure operations are properly secured and do not emit odors.

Director Matlock said the City hasn't received any current complaints, but did receive a complaint about odors from a producer processor, which has since been resolved. Another complaint involved a medical marijuana

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grow operation, which is illegal. The City is pursuing steps to close the operation.

Brett Hester, 8117 Parkridge Drive, reported that at the end of the road is his step family's former cattle ranch. The property currently houses horses and other livestock. He asked about the status of surveyors in the area. At the end of the road, the mailbox used to be located across the street from the Trails End property because there was no Parkridge Drive when the property was used as a cattle ranch. After he arrived, he fronted the cost and hired a county employee to build a berm. He successfully obtained a county encroachment and grading permit. 79th Avenue terminates at that point and transgresses down his driveway. He installed a six-foot privacy fence and cattle gates. He asked whether his existing permits would be grandfathered.

Planner Cooper affirmed the permits would be grandfathered by the City.

Jeff Powell, 900 V Street, reported he sent a letter to Planner Cooper requesting exclusion from the annexation. He lives on 7.5 acres off Deschutes River at the end of "E" Street. He's lived on the property since 1991 when the Growth Management Act didn't exist. The property has two wells and a septic system. When the septic system was installed, a backup area was included in the event the system failed. He asked how the City handles septic system failure and whether he would be allowed to use the backup area and reinstall another system. Annexations come down to money and inconvenience for him personally. Although his contact with the City has always been positive, changes could occur on the Council or at the City impacting the City-friendly atmosphere. His property is located in a unique environment with much wildlife. He operates a tractor and other large farm equipment and also logs on the property. He wants to maintain his animals and doesn't want to be restricted by the City's animal count. He supports annexations for those homeowners in support, but for those opposed they should have the option of being excluded.

Director Eaton responded to questions surrounding failing septic systems. Current requirements in either the county or the City require failing septic systems to connect to City sewer if sewer is located within 200 feet of the property even though the owner might have a reserve area. The process entails obtaining a permit from the county for repair and replacement. The county contacts the City to determine whether sewer is available within 200 feet of the property. If sewer is available, the county could deny the permit.

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Planner Cooper referred to the brochure containing information on animal count. The City uses a formula from the USDA based on a farm animal unit equivalent. Additionally, the creation of county islands is no longer allowed under the GMA.

Rick Pallechio, 1334 Bridle Drive SE, said he drives to and from work on Henderson Boulevard each day. From Old Highway 99 to the bridge crossing the Deschutes River, there are no bike lanes and limited space for pedestrians. He often observes children and bicyclists along that dangerous segment of the road. He asked the City to widen the street and add a bike lane.

Everett Brown, 6813 Dena Court SE, commented that he doesn't support the annexation. He complimented the police and fire departments. As a retired police officer after serving 35 years, he's observed Tumwater police who are very professional and courteous. The same can be said about the Tumwater Fire Department.

Shana Barehand, 6933 Munn Lake Drive, said she's unsure if she signed an annexation waiver. However, after reviewing the costs and benefits of annexation, she's opposed to annexation. The private access road in the Highlands subdivision doesn't provide access to her neighborhood and her concern is the construction of 300 new homes with only one access point for egress and ingress. That's a concern because the homes are being built quickly. Even though she personally opposes annexation, it probably will occur. She likely would attend future Council meetings along with other neighbors to speak about ways to resolve the traffic flow issue.

Councilmember Cathey asked whether the neighborhood has approached the county about the road issue. Ms. Barehand advised that the neighborhood is aware of the issue and that the developer was involved in building the road for fire and police emergency access. Solomon Camp installed a fence to prevent access by people. The issue was recently raised because of new construction activity in the second phase. During the last three years, there has been no construction activity.

Mayor Kmet affirmed that City staff would research the issues and any legal requirements required by the county.

Brett Hester, 8117 Parkridge Drive, questioned the status of the surveying activity near his property. The area is located in the rear of his neighbor's property. A road is adjacent to the property in the vicinity of the commercial fuel station off Old Highway 99. The original easement

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was behind the property. When the house on the property went into foreclosure, the road was bulldozed. Since Parkridge Drive is adjacent to his property, he concern is whether the road will be extended to Old Highway 99.

Mayor Kmet affirmed staff would follow up with information on the surveying activity.

Ms. Danver added that were many reasons why the appellants didn't want the bridge installed in the wetland area. At one of the hearings, there were comments about building a bridge across the Deschutes River. This bridge is a step to that bridge.

Mayor Kmet advised that a bridge across the bridge is likely not possible because of the presence of wetlands.

Ms. Danver spoke in support of maintaining the wetland to protect habitat for wildlife.

Mayor Kmet closed the public hearing at 8:25 p.m.

Councilmember McClanahan asked staff to provide additional background information about the proposed annexation.

Planner Cooper explained that the proposed annexation has been in transition over the last 20 years. The annexation is a direct petition method giving the impression that an overwhelming majority of citizens petitioned neighborhoods and presented lists to the City. In this particular annexation, the area has been developing over time and as developers received City sewer and water service, they signed annexation waivers. Many property owners may be the second or third owner and have no knowledge that the annexation waiver exists with the property. Action to annex the area was prompted as development occurred in the area. The City has 64% of the assessed value of property in annexation waiver of protests.

Councilmember McClanahan pointed out that the City currently provides police and fire response to the area.

Planner Cooper added that the City would not extend sewer or water outside the City limits unless there was a guarantee that the area could be annexed as required by state law.

Councilmember McClanahan remarked that the GMA mandates and

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established the guidelines for cities and counties to grow and expand. Additionally, some of the concerns pertaining to the annexation were discussed with the County Commission. The county expressed concerns about annexing only businesses and reducing tax revenues to the county and leaving residences within the county. The annexation includes many residential property owners, as well as business owners. Approval of the annexation is prudent action by the Council.

MOTION: Councilmember McClanahan moved, seconded by Councilmember Hill, to adopt Resolution No. R2015-008 to annex an area in Thurston County referred to as the “Eastside UGA Annexation.”

Councilmember Hill said she always felt that the area was part of the Tumwater community as she has many friends who live in the area. Tumwater is a unique City and is very responsive to its citizens. The addition of fire and police service is a benefit to the area. As a frequent visitor to Pioneer Park, she also supports the installation of a bike lane on Henderson Boulevard.

Councilmember Oliva commended staff for their efforts in analyzing the process and ensuring concerns were addressed. The outreach on the proposed action was thorough. He thanked citizens for attending and providing testimony. Some new information was revealed during testimony requiring additional follow up by staff. As the area increases in density, there is a need for city-level services. He supports the motion.

MOTION: Motion carried unanimously.

Mayor Kmet thanked the Council and staff for their work and efforts. He thanked citizens for attending.

ADJOURNMENT: With there being no further business, Mayor Kmet adjourned the meeting at 8:37 p.m.